

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 1:09-cr-008-MEF
)	(WO)
BILLY THOMAS LUDLAM)	

ORDER

On February 10, 2009, the defendant filed an Unopposed Motion to Continue Trial (Doc. #12). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that the discovery provided consists of over 9,300 pages of documents, one CD and 5 cassette tapes. Due to the complex nature of the case, the number of counts charged, the defense needs additional time to view all of the evidence and complete the investigation. Without additional time, defense counsel will neither be able to effectively

advise the defendant s to the appropriate case strategy nor knowingly advise him of the potential penalty. Counsel for the government does not opposed the request for a continuance. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED that:

1. The defendant's motion filed on February 10, 2009 is GRANTED.
2. The trial of this case is continued from the March 30, 2009 trial term to the June 15, 2009 trial term in Dothan, Alabama.
3. The Magistrate Judge conduct a pretrial conference prior to the June 15, 2009 trial term.

DONE this the 11th day of February, 2009.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE